IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBURARY, TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

AND

THE HON'BLE MR. JUSTICE P.S. NARAYANA

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WRIT PETITION NO : 1632 OF 2005

Between:

M. Hanumantha Rao S/o Parvathalu, aged 52 years, working as Typist, O/o Executive Engineer, Tribal Welfare Engineering Division, Bhadrachalam, Khammam District.

..... PETITIONER

AND

1. Government of Andhra Pradesh, representation. By its Secretary, Tribal Welfare Department, Secretariate, Hyderabad.

2. The Superintending Engineer, Tribal Welfare Circle, Warangal.

3. The Superintending Engineer, Irrigation and C.A.D. Circle, Warangal, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, Order or direction one in the nature of writ of certiorari calling for records pertaining to Orders passed in O.A.No. 1909 of 1999, dated: 20.8.2004 on the file of A.P. Administrative Tribunal and quash the same and further declare that the Letter No. A2/136/99-V, dated: 10.3.1999 of the Superintending Engineer, Tribal Welfare, Warangal is illegal, arbitrary and discriminatory and further declare that the Government Cir.Memo No.4769/TW/Ser-II-1/95-15, dated: 31.12.1998 of Social Welfare Dept if at all it is made applicant to the petitioner is also illegal and arbitrary.

Counsel for the Petitioner: Mr.M. SURENDER RAO

Counsel for the Respondent Nos.1 to 3: Govt. Pleader for Services-II

The Court made the following:

ORAL ORDER:

(per G. Bikshapathy J)

1. The Writ Petition is filed assailing the Order passed by the Andhra Pradesh Administrative Tribunal in O.A.NO. 1909 of 1999, dated: 20.8.2004.

2. Petitioner is the applicant before the tribunal. He challenged the Order issued by the Superintending Engineer, Tribal Welfare, dated: 10.3.1999 repatriating him to the parent department namely Irrigation Department.

3. Petitioner was initially appointed as Typist in the year 1974 in Irrigation Department. However, he was sent on deputation to the Tribal Welfare Department in 1984. He was promoted in the said department as Senior Asst and he worked for some time as P.A. to Minister for Panchayat Raj. Thereafter he was sent to Tribal Welfare Department. After serving for some time, he was repatriated to the parent department by an Order dated: 16.10.1992. The said Order came to be challenged before the tribunal. The learned tribunal after considering matter dismissed the O.A. by an Order dated: 20.8.2004 against which the present Writ Petition has been filed.

4. The learned counsel for the petitioner submits that the petitioner has been working in the Tribal Welfare Department for more than 15 years and he was promoted in the department and therefore, he ought to have been retained in the

Tribal Welfare Department. He also submits that the reference to some other O.A. by the tribunal namely O.A.NO. 5597 of 1998 was wholly unwarranted.

5. We have heard the learned counsel for the parties.

6. Apart from various contentions raised before the tribunal, the only issue that arises for consideration is as to the right of the petitioner to continue in the Tribal Welfare Department?

7. Admittedly, the petitioner was sent on deputation in the year 1985 and he was continued in the department for some time and he was also granted promotion in the Tribal Welfare Department. So long as he was not absorbed in the Tribal Welfare Department, he cannot claim any right to continue in the said department. There is no material to show that he was permanently absorbed in the Tribal Welfare Department. Under those circumstances, he continued to be only on deputation, so long as he was working in the Tribal Welfare Department. Thus, we find that the petitioner has no right to continue permanently in the Tribal Welfare Department. Under those circumstances, we do not find any flaw in the Order passed by the tribunal.

8. Accordingly, the Writ Petition is dismissed. No costs.

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G.BIKSHAPATHY, J

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P.S. NARAYANA, J

7-2-2005

CHV

ASSISTANT REGISTRAR

//**TRUE COPY**//

SECTION OFFICER

To

1. The Secretary, Tribal Welfare Department, Secretariat,

Govt. of A.P. Hyderabad.

2. The Superintending Engineer, Tribal Welfare Circle,

Warangal.

3. The Superintending Engineer, Irrigation and C.A.D. Circle,

Warangal, Warangal District.

4. (2) C.Cs. to Govt. Pleader for Services-II

5. (2) CD copies.